

### **REMARKS**

Claims 52, 64-66, 72, and 86-88 are amended, no claims are canceled, and no claims are added; as a result, claims 46-88 are now pending in this application.

No new matter is added by the amendments to claims 52, 64-66, 72, and 86-88.

Claims 52 and 72 have each been amended merely to correct an obvious typographical error, specifically, to delete a duplicate period from the end of each of the claims.

Claim 64 has been amended so that the preamble of claim 64 now recites, "A computer memory storing instructions, the instructions operable to be executed on a computer to perform a method comprising:." Support for the amendments to the preamble of claim 64 can be found, for example but not limited to, the specification at page 15, line 22 through page 16, line 5.

Claims 65 and 66 have been amended merely to comport the preambles of these claims with the amendments to the preamble of claim 64, from which claims 65 and 66 depend.

Claim 86 has been amended, in a manner similar to claim 64, so that the preamble of claim 86 now recites, "A computer memory storing instructions, the instructions operable to be executed on a computer to perform a method comprising:." Support for the amendments to the preamble of claim 86 can be found at least as stated above with respect to the amendments to claim 64.

Claims 87 and 88 have been amended merely to comport the preambles of these claims with the amendments to the preamble of claim 86, from which claims 87 and 88 depend.

### **Affirmation of Election**

The Examiner's telephonic Restriction Requirement was withdrawn. Applicants respectfully acknowledge the withdrawal of the Restriction Requirement.

### **Double Patenting Rejections**

Claims 46-88 were rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting over claims 1-52 of U.S. Patent No. 6,622,260.

Claims 46-88 were rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting over claims 1-18 of U.S. Patent No. 6,675,324.

Claims 72-73 and 77 were rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting over claims 1-30 of U.S. Patent No. 7,216,252.

Claims 46-88 were provisionally rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting over claims 1-26 of U.S. Application No. 10/628,726.

Claims 46-71 were provisionally rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting over claims 1-28 of U.S. Application No. 10/672,697.

Applicants do not admit or necessarily agree with any of the following:

- that claims 46-88 are obvious in view of claims 1-52 of U.S. Patent No. 6,622,260;
- that claims 46-88 are obvious in view of claims 1-18 of U.S. Patent No. 6,675,324;
- that claims 72-73 and 77 are obvious in view of claims 1-30 of U.S. Patent No. 7,216,252;
- that claims 46-88 are obvious in view of claims 1-26 of U.S. Application No. 10/628,726; and
- that claims 46-71 are obvious in view of claims 1-28 of U.S. Application No. 10/672,697.

However, in order to proceed to an allowance in the application, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate these rejections.

#### §101 Rejection of the Claims

Claims 64-66 and 86-88 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 64-66 and 86-88, at least as now amended, are directed to statutory subject matter under 35 U.S.C. § 101.<sup>1</sup> By way of illustration, independent claim 64, as now amended, recites:

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<sup>1</sup> See Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, Latest Revision September 2007 at MPEP § 2106.01 I, stating: "When a computer program is recited in conjunction with a physical structure, such as a computer memory, USPTO personnel should treat the claim as a product claim."

"A computer memory storing instructions, the instructions operable to be executed on a computer to perform a method comprising:"

In a similar manner, independent claim 86, has been amended to recite:

"A computer memory storing instructions, the instructions operable to be executed on a computer to perform a method comprising:."

Thus, both independent claims 64 and 86, at least as now amended, are directed to statutory subject matter under 35 U.S.C. § 101. Further, claims 65-66 and 87-88, which depend from independent claims 64 and 86 respectively, are also directed to statutory subject matter under 35 U.S.C. § 101.

Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 64-66 and 86-88.

*§112 Rejection of the Claims*

Claims 72-77 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Specifically, the Office Action states,<sup>2</sup>

"Referring to claim 72 and subsequently claims 73-77, 'the first of the processing elements' has no antecedent basis. It is understood to refer to 'a first . . . ' "

Applicants respectfully traverse the rejection. By way of illustration, claim 72 recites:

"a plurality of processing elements each adapted to execute one of a plurality of concurrent processes and to signal a machine check abort condition to others of the processing elements after an error occurs in the each processing element;

a non-volatile memory accessible to a **first of the processing elements**,

a firmware error handler stored in the non-volatile memory and responsive to the machine check abort signal to cause **the first of the processing elements** to attempt to correct the error in any of the processing elements." (Emphasis added).

Thus, claim 72 includes "a first of the processing elements," which provides proper antecedent basis for the subsequent language in the claim of, "the first of the processing

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<sup>2</sup> See the Office Action at page 2, in the second sentence under item number 2.

elements." Therefore, claim 72 complies with the requirements of 35 U.S.C. § 112, second paragraph.

Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 72-77.

*Allowable Subject Matter*

Claims 46-88 were indicated to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112 and 35 U.S.C. § 101 set forth in the Office Action.

For at least the reasons stated above, the 35 U.S.C. § 112 and 35 U.S.C. § 101 rejections set forth in the Office Action have been overcome.

Applicants respectfully request a notification of allowance of claims 46-88.

*Reservation of Rights*

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserve all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (612) 371-2132 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21st day of July, 2008.

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